

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

TUSHBABY, INC.,

Plaintiff,

v.

ZOOYEE, a Foreign Corporation,

Defendant.

Consolidated Case No. 1:24-cv-21136-
LEIBOWITZ/TORRES

AFFIDAVIT OF LEO M. LICHTMAN

I, Leo M. Lichtman, being duly sworn, hereby depose and say:

1. I am an attorney at law duly licensed to practice before all courts in the State of New York and the State of California. I am permitted to appear pro hac vice and participate in the above-entitled proceedings on behalf of TUSHBABY, INC.

2. I am a Partner at ESCA Legal LLC, which represents TUSHBABY, INC. (“TUSHBABY” or “Plaintiff”) in the above-entitled proceedings. As such, I have personal knowledge of the matters contained herein. To my knowledge, all of the facts stated in this Affidavit are true and correct. If called as a witness, I could and would testify to the statements made herein.

3. This Affidavit is submitted in support of Plaintiff’s Request for Entry of Default.

4. On March 25, 2024, Plaintiff filed its complaint seeking affirmative relief. [ECF No. 1].

5. Defendant ZOOYEE (“Defendant”) was properly served pursuant to Rule 4 of the Federal Rules of Civil Procedure on April 12, 2024, as shown by the proof of service filed with the Court on April 16, 2024. [ECF No. 19].

6. On April 23, 2024, attorney Andrew Jonathan Palmer entered his appearance in this case on behalf of Defendant. [ECF No. 27].

7. On April 30, 2024, Mr. Palmer appeared on behalf of Defendant in the Evidentiary Motion Hearing before the Court [ECF No. 41, 43].

8. On May 1, 2024, Defendant filed a response in opposition to Plaintiff's ex parte Motion for Entry of Temporary Restraining Order [ECF No. 47].

9. On May 2, 2024, Mr. Palmer appeared on behalf of Defendant in the Evidentiary Hearing before the Court [ECF No. 51, 52].

10. On May 22, 2024, Defendant filed a response in opposition to Plaintiff's amended Motion for Preliminary Injunction [ECF No. 61].

11. On July 26, 2024, Mr. Palmer appeared remotely on behalf of Defendant in the Show Cause Hearing before the Court [ECF No. 72].

12. On August 8, 2024, the Court severed Defendant from this action and ordered Plaintiff to refile its Complaint against Defendant in a separate action [ECF No. 74]. Pursuant to this order, Plaintiff filed a separate action against Defendant (*Tushbaby v. Zooyee*, 1:24-cv-23235-JEM (S.D. Fla., filed Aug. 23, 2024)). The Court consolidated the actions on August 27, 2024, and ordered all pleadings further pleadings be filed under Case No. 23-cv-21136-DSL [ECF No. 79].

13. On September 18, 2024, Plaintiff filed an Amended Complaint against Defendant, constituting service on Defendant pursuant to Local Rule 5.1(e) [ECF No. 91]. The next day, Mr. Palmer's paralegal, David Kang, contacted Plaintiff's counsel via email to discuss the possibility of settlement. A true and correct copy of this email is attached hereto as **Exhibit 1**.

14. Under Rule 15 of the Federal Rules of Civil Procedure, Defendant was required to plead or otherwise respond to the Amended Complaint by October 2, 2024. The time to plead or

otherwise respond to the complaint has not been extended by any agreement of the parties or any order of the Court.

15. Defendant has failed to serve or file a pleading or otherwise respond to the Amended Complaint. The applicable time limit for responding to the complaint has expired.

16. Defendant is not a minor or an incompetent person.

17. Defendant is not currently in the military service, and therefore the Servicemembers Civil Relief Act is not applicable.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 23, 2024 in Brooklyn, New York.

A handwritten signature in dark ink, appearing to read 'L. Lichtman', with a stylized, flowing script.

Leo M. Lichtman

Exhibit 1

David

From: David Kang <dkang@gasmanlaw.com>
Sent: Thursday, September 26, 2024 8:58 AM
To: Leo Lichtman <Leo@esca.legal>; James Slater <James@esca.legal>
Cc: ajpalmer@palmerlawgroup.com
Subject: Re: Case 1:24-cv-21136-DSL TUSHBABY, INC. v. Schedule A

Counsel,

Any settlement offer?

Best,
David

From: Leo Lichtman <Leo@esca.legal>
Sent: Monday, September 23, 2024 09:37
To: David Kang <dkang@gasmanlaw.com>; James Slater <James@esca.legal>
Cc: ajpalmer@palmerlawgroup.com <ajpalmer@palmerlawgroup.com>
Subject: RE: Case 1:24-cv-21136-DSL TUSHBABY, INC. v. Schedule A

David,

We are discussing with the client. As you're aware we were not counsel when these prior discussions took place.

Best,

ESCA.

Leo M. Lichtman
Partner

347-745-2535

Americas Tower
1177 6th Avenue, 5th Floor
New York, NY 10036

Mail to: 208 Lenox Ave, #211
Westfield, NJ 07090

<https://calendly.com/leo-esca>

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From: David Kang <dkang@gasmanlaw.com>
Sent: Monday, September 23, 2024 9:16 AM
To: James Slater <James@esca.legal>

Cc: ajpalmer@palmerlawgroup.com; Leo Lichtman <Leo@esca.legal>
Subject: RE: Case 1:24-cv-21136-DSL TUSHBABY, INC. v. Schedule A

Counsel,

I am following up on this matter. Please advise.

Best,

Regards,

David Kang - Paralegal to Andrew J. Palmer
Jared W. Gasman Attorney, P.A.
5353 N. Federal Highway, Suite 402
Fort Lauderdale, FL 33308
Phone: 954-771-7050

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From: David Kang
Sent: Thursday, September 19, 2024 9:06 AM
To: James Slater <James@esca.legal>
Cc: ajpalmer@palmerlawgroup.com; Leo Lichtman <Leo@esca.legal>
Subject: RE: Case 1:24-cv-21136-DSL TUSHBABY, INC. v. Schedule A

Counsel,

We represent the Defendant ZOOYEE in this case. We received Plaintiff's settlement demand for [REDACTED] before. Please advise whether this offer is still on the table.

Best,
David

From: Nicole Fundora <nfundora@bsflp.com>
Sent: Wednesday, May 1, 2024 4:38 PM
To: David Kang <dkang@gasmanlaw.com>
Cc: Marshall Dore Louis <mlouis@BSFLLP.com>; Genesis Shin <gshin@bsflp.com>; Katie Kavanaugh <KKavanaugh@bsflp.com>; Krystie Sor <Ksor@bsflp.com>; ajpalmer@palmerlawgroup.com;